

**IN THE UNITED STATE DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

AL EVERITT BOYETT, JR.,

Plaintiff,

v.

ANTHONY CLARK, SHERIFF, *et al.*,

Defendants.

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)CIVIL ACTION : 2:05-CV-966-D

MOTION FOR EXTENSION OF TIME TO FILE SPECIAL REPORT

The defendants, Nurse Mitchell and Dr. M.H. McWhorter, III, move this Court for an extension of time within which to file its Special Report. As grounds for said motion, defendants state the following:

1. On October 14, 2005, this Court entered an Order for Special Report. Said Order required that the defendants submit a special report to this Court within 40 days.

2. The Order for Special Report named only Anthony Clark, Sheriff. However, the complaint named “Nurse Mitchell” and “Dr. McWhortor III, MD.” Nurse Mitchell was served by certified mail on October 18, 2005. Accordingly her special report was due on November 23, 2005.

3. Service was not perfected on Defendant McWhorter so this Court entered an order on October 26, 2005 requiring plaintiff to provide a correct address

for Defendant McWhorter. Plaintiff provided that address on October 31, 2005 and the Court ordered Defendant McWhorter served at the new address and Defendant McWhorter provide his special report by December 13, 2005.

4. Daniel F. Beasley (who is presently applying for admission to this District) of the undersigned firm was retained to represent "Southern Health Partners" on November 10, 2005. Mr. Beasley initial understood Defendant Clark to be the only named defendant and that Defendant Clark had been sued for the conduct of Southern Health Partners. Mr. Beasley missed the fact that Nurse Mitchell and Dr. M.H. McWhorter, III were also named defendants and were actually the Defendants for whom undersigned had been retained to defend.

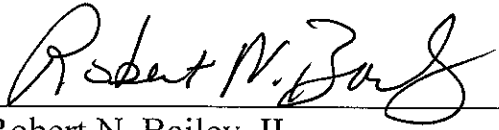
5. Mr. Beasley obtained permission to represent Defendant Clark and then contacted Defendant Clark. At that time, Defendant Clark indicated that he was already represented and when the undersigned counsel contacted Defendant Clark's attorney, counsel advised that he had appeared on behalf of Defendants Clark and Smith but not Defendants Mitchell and McWhorter.

6. The undersigned firm has initiated an investigation of the claims against Defendants Mitchell and McWhorter but needs additional time to complete the investigation and prepare these defendants' answer and special report.

WHEREFORE, defendants Mitchell and McWhorter request a 60 day extension from the date Defendant McWhorter's special report is due within which

to complete their investigation and prepare their special report as directed by this Court.

Respectfully submitted,


Robert N. Bailey, II

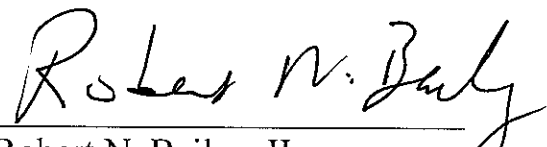
LANIER FORD SHAVER & PAYNE P.C.
200 West Side Square, Suite 5000
P.O. Box 2087
Huntsville, Alabama 35804
(256) 535-1100

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing upon the following by placing a copy of same in the United States mail, postage prepaid, on this the 7th day of December, 2005 addressed as follows:

Al Everitt Boyett, Jr.
AIS 242728 Bed 2
Alabama Dept. of Corrections Facility
P.O. Box 150
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Robert N. Bailey, II